

**UNITED STATES DEPARTMENT OF COMMERCE****United States Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/600,132 08/14/00 LANG

G 05725.0623

EXAMINER

IM22/0711

FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER
1300 I STREET N W
WASHINGTON DC 20005

PRI. A

ART UNIT

PAPER NUMBER

1751

DATE MAILED:

07/11/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.

09/600,132

Applicant(s)

LANG ET AL.

Examiner

Anil K Puri

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 18) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

DETAILED ACTION

Claims 23-62 are pending in this application

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 24 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant recited "Biotechnology" is a broad term, which does not provide any metes and bounds that render the claim indefinite.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a), which forms the basis for all obviousness rejections, set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aaslyng et al [WO 97,19998]. In view of Audousset et al [U.S.5769903]

The primary reference of Aaslyng teaches a hair dyeing composition comprising laccase enzyme dye precursor as oxidation bases, modifiers as couplers and method for dyeing hair. Aaslyng further teaches laccase enzyme selected from plant, animal, fungal, bacteria or microbiological origin. The fungal origin enzyme include *Aspergillus* (as claimed in claims 23-27, see page 5, line 20-25) The quantity of laccase enzyme in

dyeing composition can be calculated (as claimed in claim 28-30 see page 10, line 38, page 11, line 1-2). Hair dyeing composition also comprises oxidation dye which is further defined as dye precursors and examples on page 6-7 line 19-20 and couplers or modifiers and their examples on page 7 line 35 page 8 line 1-5 (as claimed in claim 36 and 40) Concentrations of dye precursors or oxidation base and couplers are as claimed in claims, 37-39 and 42-44 (see example on page 9, line 34-38, page 10 line 1-17) The dye composition further has media, pH and other ingredients as claimed in claim 45-57(see page 8, line 30-32 and example on page 9-10.)

Claims 58-61 are drawn to the method of dyeing a hair using the above said composition. The prior art on page 8 discloses similar method of dyeing hair.

Claim 62 is drawn to kit or device for dyeing hair which comprises couplers, oxidation base and enzyme. Therefore a person having ^{Ordinary} skill in the art would be motivated to select the known ingredients of kit which would have been obvious.

Aaslyng et al does not teach conditioning agent insoluble in aqueous media.

Audousset in analog art teaches composition for the oxidation dyeing of keratin fibers and alkaline compound (C) as claimed which is further defined on col.9 lines 46-62.

Therefore in view of the teaching of the secondary reference of Audousset one having ^{Ordinary} skill in the art would be motivated to modify primary reference of Aaslyng by using alkaline compound in dyeing composition as described above to modify different color and shades in the dyeing hair. Such modification would be obvious because one

Art Unit: 1751

would expect that the use of alkaline compound would be similarly useful and applicable to the Aaslyng's composition for dyeing hair.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anil K Puri whose telephone number is 703/605-4427.

The examiner can normally be reached on 8:30 AM TO 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yougendra Gupta can be reached on (703)-308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are 703/305-3599 for regular communications and 703/305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703/308-0661.


YOGENDRA N. GUPTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

AKP
June 26, 2001